

Issued March 27, 1913.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 2104.

(Given pursuant to section 4 of the Food and Drugs Act.)

MISBRANDING OF SALAD DRESSING AND MEAT SAUCE.

On July 31, 1911, the United States Attorney for the Southern District of New York, acting upon reports by the Secretary of Agriculture, filed in the Circuit Court of the United States for said district an information against Eugene W. Durkee and James M. French, copartners, doing business under the firm name of E. R. Durkee & Co., alleging shipment by them, in violation of the Food and Drugs Act—

(1) On or about November 9, 1910, from the State of New York into the State of Louisiana of a quantity of salad dressing and meat sauce which was misbranded. The product was labeled: "Durkee's Salad Dressing and Meat Sauce. E. R. Durkee & Co., New York. A rich, wholesome and delicious mayonnaise dressing for lobster, chicken and all other salads. Prepared with great care and only from the purest and choicest condiments obtainable. None genuine without trade mark and signature of E. R. Durkee & Co. 16 oz. net weight. Does not contain now and never has contained any preservative of any sort."

Examination of samples of the product by the Bureau of Chemistry of this Department showed the following results: By weighing 8 bottles of the sample, that the average net weight of dressing in them was 15 $\frac{3}{4}$ ounces. None contained over 16 ounces, 2 contained 16 ounces, and 6 contained less than 16 ounces. By measuring the portion of the bottle filled by the dressing, it was found that the average volume of dressing in the 8 bottles was 15.13 ounces (liquid), each of the 8 bottles containing less than 16 liquid ounces.

(2) On or about May 2, 1910, from the State of New York into the State of Alabama of a quantity of salad dressing and meat sauce which was misbranded. The product was labeled: "Durkee's Salad Dressing and Meat Sauce. Does not contain now and never has contained any preservative of any sort. 16 oz. net weight. E. R. Durkee & Co., New York, U. S. Serial No. 5061."

Examination of samples of this product by the Bureau of Chemistry of this Department showed the following results:

Secretary's sample:	Grams.
Gross.....	865
Tare.....	431
Net.....	<u>434</u>
Shortage, 4.31 per cent.	<u> </u>
Dealer's sample:	
Gross.....	912
Tare.....	491
Net.....	<u>421</u>
Shortage, 7.18 per cent.	<u> </u>
Analyst's sample:	
Gross.....	889
Tare.....	444
Net.....	<u>445</u>
Shortage, 1.89 per cent.	<u> </u>

Misbranding of both shipments of the product was alleged in the information for the reason that it was in package form and was labeled as set forth above so as to deceive and mislead the purchaser or purchasers thereof, in that the package, container, and label of the product bore a statement regarding it and the ingredients and substances contained therein which was false and misleading, in that its contents were stated to be of the weight of 16 ounces, whereas in fact said contents were of less weight than 16 ounces.

On October 14, 1912, the defendants entered a plea of guilty to the information and the court imposed a fine of \$100 on account of the first shipment and a fine of \$50 on account of the second shipment referred to above.

W. M. HAYS,
Acting Secretary of Agriculture.

WASHINGTON, D. C., *December 12, 1912.*